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Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 AID-05 CEA-01 CIAE-00 COME-00 EB-08
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OPIC-03 SP-02 TRSE-00 LAB-04 SIL-01 AGRE-00
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PASS EB FOR PREEG, TREASURY FOR GRIFFIN

E.O. 11652: N/A
TAGS: EINV, OECD
SUBJECT: BADGER BELGIUM BANKRUPTCY

REF: A) OECD PARIS 7647, B) OECD PARIS 7646

1. MISSION OFFICER WAS VISITED ON MARCH 16 BY MR. STEWART (RETIRED EXECUTIVE VICE PRESIDENT OF BADGER U.S., AND CURRENTLY REPRESENTATIVE OF INTER-NATIONAL MANAGEMENT OF BADGER AND RAYTHEON FOR MATTERS CONCERNING BADGER BELGIUM BANKRUPTCY). STEWART'S STATED PURPOSE FOR VISIT WAS TWO-FOLD: (A) TO REVIEW CHRONOLOGY OF EVENTS LEADING UP TO THE CURRENT SITUATION WITH BADGER BELGIUM; (B) TO GAIN BETTER UNDERSTANDING OF THE PROCEDURES IN OECD REGARDING BOTH UPCOMING BIAC/TUAC-CIME MEETING ON MARCH 30, AND CONSULTATION PROCEDURES IN THE CIME ITSELF.

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2. FOLLOWING SUMMARIZES STEWART'S VERSION OF HISTORY OF BADGER BELGIUM AND OF CHRONOLOGY OF RECENT EVENTS LEADING UP TO DECLARATION OF BANKRUPTCY OF BADGER BELGIUM ON FEBRUARY 14, 1977. (MISSION RECOGNIZES THAT SOME OR ALL OF THIS INFORMATION MAY BE AVAILABLE TO WASHINGTON AGENCIES AND ADDRESSEE POSTS, BUT CONSIDERED IT WORTHWHILE TO FORWARD IT IN CASE IT MAY HELP TO FILL

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OUT THE PICTURE.)

3. CORPORATE HISTORY: INCORPORATED IN 1957, BADGER BELGIUM DID NOT BEGIN OPERATING UNTIL EARLY 1966. ITS BUSINESS WAS ENGINEERING AND DESIGN OF PETRO-CHEMICAL PLANTS, PRIMARILY, BUT NOT EXCLUSIVELY, FOR THE BELGIAN NATIONAL MARKET. (HOWEVER, IN RECENT FIVE-YEAR PERIOD, BADGER BELGIUM PARTICIPATED IN THE ENGINEERING AND DESIGN OF PETRO-CHEMICAL PLANTS WORTH ABOUT $300 MILLION, OF WHICH $120 MILLION WAS FOR THE BELGIAN NATIONAL MARKET.) ACCORDING TO STEWART, THE COMPANY DID WELL UNTIL APPROXIMATELY TWO YEARS AGO, WHEN THERE WAS A RAPID BUSINESS DECLINE IN THE FIELD OF ENGINEERING AND DESIGN OF PETRO-CHEMICAL PLANTS, ESPECIALLY IN THE BENELUX AREA. NEVERTHELESS, BADGER U.S. MADE DECISION TO KEEP BADGER BELGIUM ALIVE BY TRANSFERRING WORK FROM ITS OTHER OFFICES (IN THE U.K., NETHERLANDS AND U.S.), ALTHOUGH THIS TRANSFER WAS DONE ONLY WITH THEIR CLIENTS' PERMISSION, AND AT SOME COST TO THE OTHER BADGER COMPANIES. STEWART POINTED OUT, HOWEVER, THAT MANY CLIENTS WERE RELUCTANT TO PARTICIPATE IN THIS PROCEDURE, BECAUSE THE COSTS IN BELGIUM WERE SOME 50 PERCENT HIGHER THAN THE COSTS FOR COMPARABLE WORK DONE IN THE OTHER OFFICES OF BADGER. BY SEPTEMBER, 1976, MR. STEWART CLAIMS THAT IT WAS COSTING BADGER U.S. APPROXIMATELY $500,000 PER MONTH TO KEEP BADGER BELGIUM OPEN, WORKING PRIMARILY ON INTRA-COMPANY PROJECTS.

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4. CHRONOLOGY OF RECENT EVENTS: IN SEPTEMBER, 1976, SHAREHOLDERS OF BADGER BELGIUM (BADGER U.S. AND A FEW BADGER BELGIAN EMPLOYEES) DECIDED TO ATTEMPT TO SELL BADGER BELGIUM. SEPTEMBER 28: FIRST CONTACT REGARDING SALE WAS MADE WITH THE BELGIAN ENGINEERING FIRM, SYBETRA, WHICH, ACCORDING TO MR. STEWART, WAS THE ONLY BELGIAN FIRM COMPARABLE TO BADGER BELGIUM. SHORTLY THEREAFTER, BADGER BELGIUM OFFICERS ALSO CONTACTED SEVERAL OTHER POTENTIAL BUYERS, INCLUDING U.S. FIRMS DRAVO AND BECHTEL. OCTOBER 11 AND 12: BADGER BELGIUM MET WITH REPRESENTATIVE OF THE BELGIAN SECRETARY OF STATE FOR REGIONAL ECONOMY AND INFORMED HIM OF THEIR INITIATED ATTEMPT TO SELL BADGER BELGIUM. THEY ASKED FOR THE HELO OF THE BELGIAN GOVERNMENT IN THIS MATTER.

5. OCTOBER 13: BADGER BELGIUM MADE ITS FIRST OFFICIAL ANNOUNCEMENT TO ITS EMPLOYEES THAT COMPANY COULD NOT CONTINUE TO OPERATE UNDER THE PRESENT CIRCUMSTANCES

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AND CONSULTATIONS HAD BEEN INITIATED TO SEEK A SOLUTION

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OPIC-03 SP-02 TRSE-00 LAB-04 SIL-01 AGRE-00
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R 181854Z MAR 77
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TO THE SITUATION. NOVEMBER 9: IN A LETTER TO THE SECRETARY OF STATE FOR REGIONAL ECONOMY, BADGER BELGIUM REVIEWED ITS CONTINUING ATTEMPTS AT FINDING A BUYER AND ASKED AGAIN FOR THE BELGIAN GOVERNMENT'S HELP IN FACILITATING SALE THROUGH FINANCIAL MEANS, SUCH AS LOW INTEREST LOAN. NOVEMBER 16: FIRST OFFICIAL MEETING WAS HELD AMONG BADGER BELGIUM OFFICIALS, SYBETRA AND REPRESENTATIVES FROM THE BELGIAN MINISTRY OF FINANCE AND OF THE SECRETARY OF STATE FOR REGIONAL ECONOMY.

6. NOVEMBER 22: BADGER BELGIUM SENT A LETTER TO THE BELGIAN SECRETARY OF STATE FOR REGIONAL ECONOMY INCLUDING ADDITIONAL INFORMATION ABOUT BADGER BELGIUM AND STATING THAT THE COMPANY WOULD HAVE TO CEASE OPERATIONS WITHIN TWO MONTHS IF NO SOLUTION OR CANDIDATE FOR SALE WERE FOUND. NOVEMBER 25: BADGER BELGIUM HAD ITS FIRST OFFICIAL CONTACT WITH A BELGIAN
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UNION REPRESENTATIVE WHO STATED THAT HE WAS AWARE OF THE BADGER SIUATION AND HOPED THAT THE COMPANY WOULD TAKE ALL MEASURES "TO MAINTAIN CONTINUITY OF EMPLOYMENT". NOVEMBER 26: IN ANOTHER MEETING WITH BELGIAN UNION REPRESENTATIVE, CONCERN WAS EXPRESSED BY THE UNION AS TO THE MATTER OF SEVERANCE PAY. THE UNION STATED THAT IT EXPECTED BADGER BELGIUM TO MAKE UP ANY DIFFERENTIALS WHICH MIGHT OCCUR IF BANKRUPTCY PROCEEDINGS WERE INITIATED. ACCORDING TO MR. STEWART, THIS WAS THE FIRST MENTION OF POSSIBLE BANKRUPTCY. DECEMBER 6: A LETTER WAS WRITTEN BY MR. SCHILTZ, BELGIAN MEMBER OF PARLIAMENT, TO THE MINISTER OF ECONOMIC AFFAIRS, ASKING FOR OFFICIAL HELP IN FINDING REASONABLE SOLUTION TO THE BADGER BELGIUM SITUATION.

7. DECEMBER 8: SYBETRA ANNOUNCED THAT IT WAS NO LONGER INTERESTED IN PURCHASING BADGER BELGIUM. DECEMBER 22: BADGER BELGIUM HELD ANOTHER MEETING WITH THE UNIONS, INFORMED THEM THAT THERE WOULD BE NO SALE TO SYBETRA AND THAT BANKRUPTCY WAS ONLY SOLUTION. DECEMBER 23: OFFICIAL ANNOUNCEMENT TO EMPLOYEES OF BADGER BELGIUM THAT NO BUYER HAD BEEN FOUND, THAT STEPS FOR SHUTTING DOWN WERE BEING STUDIED, BUT THAT TALKS WERE CONTINUING WITH THE GOVERNMENT AND WITH THE UNIONS. JANUARY 11, 1977: OFFICIAL DECISION BY BADGER BELGIUM SHAREHOLDERS TO SEEK A CONCORDAT ("AMICABLE" FORM OF BANKRUPTCY). JANUARY 12: REQUEST FOR CONCORDAT FILED WITH THE BELGIAN COURTS. ON FEBRUARY 14: BELGIAN COURT TURNED DOWN REQUEST FOR CONCORDAT (BECAUSE "THE COMPANY WAS NOT IN FULL CONTROL OF ITS DESTINY; IT IS A SATELLITE COMPANY WHICH IS FOREIGN CONTROLLED"). WITHOUT CONCORDAT, COMPANY WAS DECLARED BANKRUPT AND THE COURT APPOINTED A RECEIVER.

8. ACCORDING TO STEWART, BADGER BELGIUM EMPLOYEES WERE PAID THROUGH THE END OF JANUARY, 1977, AS WELL AS VACATION ALLOWANCES FOR 1976 AND 1977, AND A PRO-RATED THIRTEENTH MONTH BONUS. AFTER THESE PAYMENTS WERE MADE. BADGER BELGIUM HAD A NET WORTH OF APPROX-IMATELY $2.8 MILLION. ACCORDING TO BELGIAN ADMINISTRATIVE PROCEDURE, EMPLOYEES EARNING BELGIAN FRANCS 250,000 PER YEAR OR LESS, UPON SEVERANCE, ARE

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TO RECEIVE THREE MONTHS' PAY FOR EACH FIVE YEARS OF SERVICE. FOR THOSE EMPLOYEES EARNING MORE THAN THIS AMOUNT, SEVERANCE IS TO BE DETERMINED BY NEGOTIATION BETWEEN EMPLOYEE AND EMPLOYER, BUT SHOULD BE NO LESS THAN THE ABOVE. BADGER BELGIUM CALCULATES THAT THE AMOUNT INVOLVED IN FULFILLING THESE SEVERANCE PAY REQUIREMENTS IS APPROXIMATELY $4.6 MILLION, SOME $1.8 MILLION ABOVE NET WORTH OF BADGER BELGIUM. STEWART STATED THAT, ON THE AVERAGE, EACH EMPLOYEE WOULD RECEIVE ABOUT SIXTEEN MONTHS' SEVERANCE PAY (BUT RANGING UP TO 24 MONTHS). SOME OF THE DIFFERENTIAL BETWEEN LIQUIDATION OF BADGER BELGIUM AND THE SEVERANCE PAY REQUIREMENTS WOULD BE MADE UP BY AN INDEMNITY FUND SUPPORTED BY THE BELGIAN EMPLOYERS FEDERATION. STEWART - MENTIONED THAT 26 OF THE 240 AFFECTED BADGER BELGIUM EMPLOYEES WERE IMMEDIATELY REHIRED BY BADGER SUB-SIDIARIES ELSEWHERE IN EUROPE AND MOST OF THE OTHERS HAVE OBTAINED EMPLOYMENT ELSEWHERE. NEVERTHELESS, A SUIT AGAINST BADGER BELGIUM SHAREHOLDERS HAS BEEN FILED BY THE EMPLOYEES, INCLUDING THOSE IMMEDIATELY RETIRED BY BADGER BELGIUM FOR ALL SEVERANCE PAY, INCLUDING DIFFERENTIAL; THIS SUIT COMES UP FOR ITS

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----------181950Z 117574 /47
R 181854Z MAR 77
FM USMISSION OECD PARIS
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FIRST HEARING ON MAY 11. (NOTE: SOME OF THE REHIRED BADGER BELGIUM EMPLOYEES PARTIES TO THE SUIT CLAIM THEY WERE "ROPED" INTO IT, AND DO NOT WANT TO BE PARTIES TO THE ACTION.)

9. STEWART EMPHASIZED THAT IN ALL YEARS OF OPERATION OF BADGER BELGIUM, NO PROFITS OR DIVIDENDS HAD EVER BEEN REMOVED FROM BELGIUM. IT IS HIS BELIEF THAT REQUIREMENTS FOR SEVERANCE PAY UNDER BELGIAN ADMINISTRATIVE PROCEDURES ARE UNREASONABLE AND INEQUITABLE AND THAT LIQUIDATION OF BADGER BELGIUM WILL PROVIDE SUFFICIENT FUNDS FOR MEETING "NEEDS" OF EMPLOYEES.

10. MISSION OFFICER EXPLAINED TO STEWART GENERAL AGENDA FOR UPCOMING MARCH 30 BIAC/TUAC-CIME MEETING, AND REVIEWED FOR HIM THE NATURE OF CONSULTATION PROCEDURES ASSOCIATED WITH THE GUIDELINES AND THE LIMITED OFFICIAL USE

SPECIFIC MODALITIES FOR HOLDING SUCH CONSULTATIONS. POSSIBILITY WAS NOTED THAT BELGIAN GOVERNMENT MIGHT SEEK TO BRING UP BADGER CASE IN ONE FORM OR ANOTHER DURING CIME PLENARY, MARCH 31 - APRIL 1.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DIPLOMATIC DISCUSSIONS, BUSINESS FIRMS, BANKRUPTCIES, FOREIGN INVESTMENTS, MEETING REPORTS
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Copy: SINGLE
Sent Date: 18-Mar-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977OECDP08041
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770093-0878
Format: TEL
From: OECD PARIS
Handling Restrictions: n/a
Image Path:
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Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 OECD PARIS 7647, 77 OECD PARIS 7646
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 23-Nov-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3066631
Secure: OPEN
Status: NATIVE
Subject: BADGER BELGIUM BANKRUPTCY
TAGS: EINV, US, BE, OECD, BADGER BELGIUM, BADGER US
To: STATE
Type: TE
vdkvgwkey: odbc://SAS/SAS.dbo.SAS_Docs/4a03eeb5-c288-dd11-92da-001cc4696bcc
Review Markings:
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